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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/689,615 10/13/00 ESSER

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QM22/0618
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EXAMINER

CASTELLANO, S

ART UNIT	PAPER NUMBER
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3727

DATE MAILED:

06/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No.

09/689,615

Applicant(s)

Esser

Examiner

Castellano

Group Art Unit

3727

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
- Of the above claim(s) 10-12, 14-19 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Group 1: Fig. 3, 10 and 11;

Group 2: Fig. 7;

Group 3: Fig. 6; and

Group 4: Fig. 8.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 and 20 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mr. Parmanand Sharma on June 4, 2001 a provisional election was made with traverse to prosecute the invention of the specie of Group 1: Fig. 3, 10 and 11, claims 1-9, 13 and 20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-12 and 14-19 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation "the single axis of revolution" in line 10. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 6 recites the limitation "said flange" in line 2. There is insufficient antecedent basis for this limitation in the claim because it can't be determined which flange is meant.

7. Claim 11 recites the limitation "the upper and lower portions" in line 2. There is insufficient antecedent basis for this limitation in the claim.

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8. Claim 12 recites the limitation "the upper and lower portions" in line 2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 20 recites the limitation "the single axis of revolution" in line 11. There is insufficient antecedent basis for this limitation in the claim.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-9 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Esser et al. (Esser).

12. Claims 1, 9 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown.

Brown discloses a rapid deployment device adapted to receive and retain a hazardous material such as dirty socks and other laundry in an open configuration which forms a receptacle, the device comprises rods (15) pivotally connected by a scissors connection at the midpoint between the ends, hubs are formed at each end of the device by [frames (11) and tubes (21a)], each hub receives the end portion of two rods along separate axes of each hub, the rods are pivotally joined to the hubs along a single axis of rotation, a canopy (19) is connected to the hubs and resides in the receptacle formed by the device.

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Lobbert.

Brown discloses the invention except for the liner positioned in the receptacle adjacent the canopy. Lobbert teaches a device for collecting waste wherein a container (7) on the interior of a device is lined by a removable liner (18). It would have been obvious to add a liner adjacent to the interior of the canopy in order to more easily remove waste from a device which has a part for receiving waste products which is more permanently connected than a removable liner laid upon the device. The removability is motivated by the convenience in rapidly removing the liner rather than needing to disconnect the canopy from the hubs and by constructing a liner of an easily cleanable plastic material which will reduce the accumulation of germs and disease associated with the hazardous material contents because the liner is the part which becomes contaminated not the canopy and the liner is cleaned between each reuse.


15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the

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examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703)-308-1035.


Stephen Castellano
Primary Examiner
Art Unit 3727

June 6, 2001